

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
	§	
v.	§	1:03cr89-HSO-MTP-4
	§	1:16cv225-HSO
	§	
KEITH NAVAIO MULLEN	§	

**ORDER DENYING MOTION TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

BEFORE THE COURT is the Motion [158] to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody filed by Defendant Keith Navaio Mullen pursuant to 28 U.S.C. § 2255. This is the second such Motion that Mullen has filed in this case, *see* Mot. [111], and therefore, Mullen requested permission to file a successive motion from the United States Court of Appeals for the Fifth Circuit, *see* Notice [159]; *In re Keith Navaio Mullen*, No. 16-60374 (5th Cir. June 7, 2016). Mullen's request for relief was based upon the United States Supreme Court's decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015).

The Fifth Circuit denied Mullen's motion for authorization to file a successive § 2255 motion. *In re Keith Navaio Mullen*, No. 16-60374, Order [21] (5th Cir. July 11, 2016). Accordingly, this Court is without jurisdiction to consider Mullen's successive § 2255 motion. *See United States v. Hernandez*, 708 F.3d 680, 681-82 (5th Cir. 2013) (holding that a district court has no jurisdiction to consider a successive § 2255 motion); *see also In re Kerns*, 623 F. App'x 186, 187 (5th Cir. 2015)

(“A district court lacks jurisdiction to consider a successive application if the prisoner has not received this court’s authorization to file it.”). Mullen’s Motion must be denied.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Motion [158] to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody filed by Defendant Keith Navaio Mullen pursuant to 28 U.S.C. § 2255 is **DENIED** for lack of jurisdiction.

SO ORDERED AND ADJUDGED, this the 31st day of October, 2016.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE